



รายการอ้างอิง

ภาษาไทย

กนกศักดิ์ แก้วเทพ. ระบบเศรษฐกิจเปรียบเทียบ แนวคิด ทฤษฎี แบบจำลอง และตัวอย่างจริง.

พิมพ์ครั้งที่ 2. กรุงเทพมหานคร: สำนักพิมพ์จุฬาลงกรณ์มหาวิทยาลัย, 2536.

กาญจนา ตั้งภากรณ์. ประสิทธิภาพของคณะกรรมการบริษัทที่ต่อการดำเนินงานของบริษัทจดทะเบียนในตลาดหลักทรัพย์.

วิทยานิพนธ์ปริญญาโทบริหารธุรกิจ. สาขาวิชาเศรษฐศาสตร์
ภาควิชาเศรษฐศาสตร์ คณะเศรษฐศาสตร์ จุฬาลงกรณ์มหาวิทยาลัย, 2542.

เกริกเกียรติ พิพัฒน์เสรีธรรม. วิเคราะห์ลักษณะการเป็นเจ้าของธุรกิจขนาดใหญ่ในประเทศไทย.

พิมพ์ครั้งที่ 1. เอกสารวิจัยหมายเลข 14. สถาบันไทยคดีศึกษา มหาวิทยาลัย
ธรรมศาสตร์. กรุงเทพมหานคร: สำนักพิมพ์มหาวิทยาลัยธรรมศาสตร์, 2525.

จริยาพร ด่านศิริ. การนำกฎหมายตัวแทนมาใช้บังคับในความสัมพันธ์ระหว่างบริษัท กรรมการ

บริษัท และบุคคลภายนอก. วิทยานิพนธ์ปริญญาโทบริหารธุรกิจ. ภาควิชานิติศาสตร์
สาขาวิชานิติศาสตร์ คณะนิติศาสตร์ จุฬาลงกรณ์มหาวิทยาลัย, 2544.

ชัชวาลย์ อินทรักษ์. ปัจจัยที่กำหนดการเคลื่อนย้ายเงินทุนระหว่างประเทศของภาคเอกชน และ

ผลกระทบที่มีต่อภาวะเงินเฟ้อ : ศึกษากรณีเศรษฐกิจไทย. วิทยานิพนธ์ปริญญาโทบริหารธุรกิจ
คณะเศรษฐศาสตร์. มหาวิทยาลัยเกษตรศาสตร์, 2528.

ชัยนันท์ งามขจรกุลกิจ. การใช้บริษัทเป็นเครื่องมือในการโกง. วารสารนิติศาสตร์มหาวิทยาลัย

ธรรมศาสตร์. ปีที่ 27 ฉบับที่ 3 (กันยายน 2540): หน้า 819-822.

ณัฐ รัตติธรรม. ผลกระทบของกลไกควบคุมการดำเนินงานของผู้บริหารต่อผลการดำเนินงานของ

สถาบันการเงิน. วิทยานิพนธ์ปริญญาโทบริหารธุรกิจ. สาขาวิชาเศรษฐศาสตร์ ภาควิชา
เศรษฐศาสตร์ จุฬาลงกรณ์มหาวิทยาลัย, 2541.

ทิวา จอนจบตรง. มาตรการกฎหมายภาษีอากรเพื่อควบคุมการจัดตั้งบริษัทด้วยเงินทุนต่ำ.
 วิทยานิพนธ์ปริญญาโทบริหารธุรกิจ. ภาควิชานิติศาสตร์ สาขาวิชานิติศาสตร์ คณะ
 นิติศาสตร์จุฬาลงกรณ์มหาวิทยาลัย, 2543.

ธนิดา หวังวิวัฒน์ศิลป์. การลดต้นทุนที่เกิดจากปัญหาตัวแทนโดยใช้นโยบายเงินปันผล และการ
 ถือหุ้นของผู้บริหารในประเทศไทย. วิทยานิพนธ์ปริญญาโทบริหารธุรกิจ. สาขาวิชาการเงิน
 ภาควิชาการธนาคารและการเงิน คณะพาณิชยศาสตร์และการบัญชี จุฬาลงกรณ์-
 มหาวิทยาลัย, 2543.

นิตยา วัฒนชีวกุล. ข้อจำกัดการโอนหุ้น. วิทยานิพนธ์ปริญญาโทบริหารธุรกิจ ภาควิชานิติศาสตร์
 คณะนิติศาสตร์ จุฬาลงกรณ์มหาวิทยาลัย, 2535.

นิพัทธ์ จิตรประสงค์ และสมยศ นาวิกาน. ธุรกิจเบื้องต้น. กรุงเทพมหานคร: โรงพิมพ์
 มหาวิทยาลัยธรรมศาสตร์ ท่าพระจันทร์, 2519.

นิวิฐชัย สำเนาพันธุ์. ความรับผิดชอบของผู้ถือหุ้นและกรรมการของบริษัทภายใต้หลักการ
 ไม่ค้ำประกันสภาพนิติบุคคลของบริษัทจำกัด. วิทยานิพนธ์ปริญญาโทบริหารธุรกิจ.
 คณะนิติศาสตร์ มหาวิทยาลัยธรรมศาสตร์, 2529.

ประสิทธิ์ โหมวิไลกุล. คำอธิบายประมวลกฎหมายแพ่งและพาณิชย์ว่าด้วยนิติบุคคล และความรับ
 ผิดทางอาญาของนิติบุคคล. กรุงเทพฯ: นิติธรรม, 2543.

ปิติพงษ์ อาษามงคล. ขอบเขต ผล และการบังคับใช้สัญญาผู้ถือหุ้น. วิทยานิพนธ์ปริญญาโทบริหารธุรกิจ.
 ภาควิชานิติศาสตร์ สาขาวิชานิติศาสตร์ คณะนิติศาสตร์ จุฬาลงกรณ์มหาวิทยาลัย, 2544.

ปัจจุชัย บุนนาค. เศรษฐกิจศาสตร์องค์กรธุรกิจ. พิมพ์ครั้งที่ 2. กรุงเทพฯ: สำนักพิมพ์ไทยวัฒนา
 พาณิชย์, 2522.

ผกามาศ เอื้องอุดม. ผลกระทบของขนาดของคณะกรรมการ องค์กรประกอบของคณะกรรมการ และ
 การถือนหุ้นของคณะกรรมการที่มีต่อผลการดำเนินงานของบริษัทจดทะเบียนในตลาด
 หลักทรัพย์แห่งประเทศไทย. วิทยานิพนธ์ปริญญาโทบริหารธุรกิจ. สาขาวิชาการเงิน

ภาควิชาการธนาคารและการเงิน คณะพาณิชยศาสตร์และการบัญชี จุฬาลงกรณ์มหาวิทยาลัย, 2543.

พรชัย วิวัฒน์ภัทรกุล. แนวความคิดเกี่ยวกับ “ทุน” ของบริษัท. บทบัณฑิตย์ เล่มที่ 48 ตอนที่ 2 (มิถุนายน 2535): หน้า 49 – 65.

พัชรารักษ์ ห่อตระกูล. กฎหมายและมาตรการป้องกันการเข้าครอบงำกิจการ (Takeover). บทบัณฑิตย์ เล่มที่ 42 ตอน 1 (2536): หน้า 95 - 207.

พัชชา สีสสุวรรณ. ความสัมพันธ์ระหว่างโครงสร้างผู้ถือหุ้น และผลตอบแทนของหลักทรัพย์ของ บริษัทจดทะเบียนในตลาดหลักทรัพย์แห่งประเทศไทย. วิทยานิพนธ์ปริญญาโทบริหารธุรกิจ สาขาวิชาการเงิน ภาควิชาการธนาคารและการเงิน คณะพาณิชยศาสตร์และการบัญชี จุฬาลงกรณ์มหาวิทยาลัย, 2543.

ภัทรวรรณ ศรีสุข. การถือหุ้นไขว้: ศึกษาเฉพาะกรณีผลกระทบต่อทางกฎหมาย และการควบคุม. วิทยานิพนธ์ปริญญาโทบริหารธุรกิจ. คณะนิติศาสตร์ มหาวิทยาลัยธรรมศาสตร์, 2541.

รุ่งโรจน์ เบญจมสุทิน. เศรษฐศาสตร์การจัดการ (managerial economics). พิมพ์ครั้งที่ 1. กรุงเทพมหานคร: สำนักพิมพ์แห่งจุฬาลงกรณ์มหาวิทยาลัย, 2543.

วิชชา สังขรศมี, ประวัติศาสตร์เศรษฐกิจ. 2521.

ศุภชัย อรุณธรรมสกุล. กองทุนเพื่อกรรมสิทธิ์ในหุ้นโดยลูกจ้าง. วิทยานิพนธ์ปริญญาโทบริหารธุรกิจ สาขาวิชานิติศาสตร์ คณะนิติศาสตร์ จุฬาลงกรณ์มหาวิทยาลัย, 2536.

ศูนย์วิจัยกสิกรไทย. ล้มละลายเวสต์ค่อม ... อีกฉากหนึ่งของวิกฤตศรัทธาธุรกิจสหรัฐ. กระแสนวัตกรรม ปีที่ 8 ฉบับที่ 1293 (กรกฎาคม 2545): หน้า 2.

สถาบันพัฒนาความรู้ตลาดทุน ตลาดหลักทรัพย์แห่งประเทศไทย. การเงินธุรกิจ. พิมพ์ครั้งที่ 1. กรุงเทพมหานคร: บริษัท อัมรินทร์พริ้นติ้งแอนด์พับลิชชิ่ง จำกัด (มหาชน), 2548.

สมศักดิ์ นวตระกูลพิสุทธิ์, บริษัทจำกัดที่มีผู้ถือหุ้นคนเดียวตามกฎหมายของประเทศฝรั่งเศส.
วารสารนิติศาสตร์ มหาวิทยาลัยธรรมศาสตร์ ปีที่ 31 เล่มที่ 4 (มิถุนายน : 2544):
หน้า 384-398.

สรบุทท มินะพันธ์. เศรษฐศาสตร์การจัดการองค์การธุรกิจ. พิมพ์ครั้งที่ 1. กรุงเทพมหานคร:
สตรีทโทโนมิกส์, 2546.

สาคร ประมาณพล. การวิเคราะห์ผลประกอบการเชิงการเงินของธุรกิจที่ขยายกิจการโดยการลงทุน
ในรูปแบบบริษัทในเครือ : กรณีศึกษา บริษัท อาเซียน อินซูเลเตอร์ จำกัด. การศึกษา
ค้นคว้าด้วยตนเอง. คณะเศรษฐศาสตร์ มหาวิทยาลัยเกษตรศาสตร์, 2546.

เสนาะ ดิยาว. เศรษฐศาสตร์การบริหาร. คณะพาณิชยศาสตร์และการบัญชี มหาวิทยาลัยธรรมศาสตร์.
2515.

เสาวนีย์ อัสวโรจน์. คำอธิบายหลักกฎหมายธุรกิจเปรียบเทียบ. กรุงเทพมหานคร: มหาวิทยาลัย
ธรรมศาสตร์, 2530.

สุทธิศักดิ์ พงษ์นาพาณิชย์, การเคลื่อนย้ายเงินทุนภาคเอกชนในประเทศไทย พ.ศ. 2532 ถึง 2541.
วิทยานิพนธ์ปริญญาโทบริหารธุรกิจ คณะเศรษฐศาสตร์ มหาวิทยาลัยธรรมศาสตร์, 2542.

สุธีร์ สุภณิตย์. การควบคุมการควบกิจการ (merger control). วารสารกฎหมาย
คณะนิติศาสตร์ จุฬาลงกรณ์มหาวิทยาลัย ปีที่ 12 ฉบับที่ 4 (ธันวาคม 2537),
หน้า 689 – 700.

สุพจน์ เจนประเสริฐ. พฤติกรรมกรรมการครอบงำกิจการ (Takeover) บริษัทที่จดทะเบียนในตลาด
หลักทรัพย์แห่งประเทศไทย. วิทยานิพนธ์ปริญญาโทบริหารธุรกิจ. คณะเศรษฐศาสตร์
มหาวิทยาลัยธรรมศาสตร์, 2539.

สุเมธ ศิริคุณโชติ. การตั้งทุนต่ำเพื่อเลี่ยงภาษีอากร. วารสารนิติศาสตร์ มหาวิทยาลัยธรรมศาสตร์
ปีที่ 27 ฉบับที่ 3 (กันยายน 2540) หน้า 793-798.

สังเวียน อินทรวิชัย. รวมบทความ “การกำกับดูแลกิจการที่ดี”. กรุงเทพฯ : ตลาดหลักทรัพย์แห่งประเทศไทย, 2545.

สัญญา ไชยเชือก. ประโยชน์จากการกู้ยืมเงินระหว่างกันของบริษัทในเครือ. การศึกษาค้นคว้าด้วยตนเอง. ปริญญาบริหารธุรกิจมหาบัณฑิต. สาขาบริหารธุรกิจมหาวิทยาลัยเกษตรศาสตร์, 2545.

โสภณ รัตนกร. คำอธิบายประมวลกฎหมายแพ่งและพาณิชย์ว่าด้วยหุ้นส่วนบริษัท. พิมพ์ครั้งที่ 9. กรุงเทพมหานคร: สำนักพิมพ์นิติบรรณาการ, 2547.

_____ และเกริก วนิกกุล. วิวัฒนาการในหลักกฎหมายเกี่ยวกับการกระทำนอกขอบวัตถุประสงค์ที่ประสงค์ของนิติบุคคล. ในหนังสือรวมบทความทางวิชาการเนื่องในโอกาสครบรอบ 64 ปี ศาสตราจารย์สัญญา ธรรมศักดิ์. กรุงเทพมหานคร: มุลินธินิติศาสตร์ มหาวิทยาลัยธรรมศาสตร์, 2534.

หยุด แสงอุทัย. ความรู้เบื้องต้นเกี่ยวกับกฎหมายทั่วไป. กรุงเทพฯ: มุลินธิศาสตราจารย์ ดร.หยุด แสงอุทัย, 2535. หน้า 257-258.

อรพรรณ พันส์พัฒนา. รูปแบบขององค์กรธุรกิจในประเทศสหรัฐอเมริกา. วารสารกฎหมาย คณะนิติศาสตร์ จุฬาลงกรณ์มหาวิทยาลัย ปีที่ 14 ฉบับที่ 3 (ธันวาคม 2536): หน้า 1 – 6.

ภาษาอังกฤษ

Adolf A. Berle and Gardiner C. Means. The Modern Corporation and Private Property. Revised Edition. New York: Brace & World, Inc., 1968.

Antoin E. Murphy. Corporate Ownership in France : The Importance of History. NBER Working Paper Series. Working Paper 10716. August, 2004. [Online]. Available from: <http://www.nber.org/papers/w10716>

Christine A. Mallin. Corporate Governance. U.S.A.: Oxford University Press, 2004.

- Danis Fox and Michael Bower. The Law of Private Companies. London: Sweet & Maxwell, 1991.
- David E. M. Sappington. Incentives in Principal-Agent Relationships. Journal of Economic Perspective Volume 5, Number 2 (1991), p. 45.
- Denis Keenan and Josephine Bisacre. Smith and Keenan's Company Law. 12th edition. Gosport: Ashford Colour Press Ltd., 2002.
- Derek French. Blackstone's Statutes on Company Law 2001-2002. 5th edition. London: Blackstone Press, 2001.
- D.D Prentice. EEC Directive on Company Law and Finance Market. Great Britain: Clarendon Press, 1991.
- EUGENE F. FAMA and MICHAEL C. JENSEN. Separation of Ownership and Control. The Journal of Law and Economics, p.304-306.
- Fama, E.F. Agency problem and the theory of the firm. Journal of Political Economy, 1980: p.288-307.
- Forma Larimo. Ownership Structure of Finish Firm'Foreign Subsidiaries in EU Countries. The Nature of the International Firm. Edited by Ingmar Björkman & Mats Forsgen, Handelshøjskolens Forlag. Denmark: Nordic Contribution to International Business Research, 1997.
- Frank H. Easterbrook & Daniel R. Fischel, Limited Liability and the Corporation," In Law and Economic Volume II. The International Library of essays in Law & Legal Theory, Jules Coleman and Jeffrey Lange, (England: Dartmouth Publishing Company Limited, 1992), pp.89-117.

Frank Wooldridge. Company law in the United Kingdom and the European Community its Harmonization and Unification. European Community Law Series. (n.p):
The Athlones Press, 1991.

Geoffrey Morse, Michael Bridge, David Milman, Richard Morris and Christopher Pyan.
The Company Act 1989 Text and Commentary. London: Sweet&Maxwell, 1990.

Harry G. Henn. Handbook of the law of Corporations and Other Business Enterprise. 2nd ed.
St. Paul, Minn: West Publishing Co., 1970.

Henry Hansmann. Ownership of the Firm. Journal of Law, Economics , and Organization
IV 2 (1988).

James A. Brickley , Clifford W. Smith and Jr. and Jerold L. Zimmerman. Managerial
Economics and Organizational Architecture. Chicago: Irwin, 1997. [Online].
Available from: <http://www.lexisnexis.com>.

Jennifer Stewart. The Intra-Enterprise Conspiracy Doctrine After Copperweld Corp. V.
Independence Tube Corp. The Columbia Law Review. (January 1986). [Online].
Available from: <http://www.lexisnexis.com>.

Jensen, Michael and William H. Mecking. Theory of the Firm:Managerial Behavior, Agency
Cost and Ownership Structure. Journal of Finance Economics. (October 1976),
p.305-360.

Jules Coleman and Jeffrey Lange. Law and Economics Volume II. The International Library of
Essays in Law & Legal Theory. England: Dartmouth Publishing Company Limited,
1992.

Julian Maitland-Walker. Guide to European Company Laws. 2nd Edition. London:
Sweet & Maxwell, 1997.

J. Dennis Hynes. Agency Partnership and the LLC in a Nutshell. U.S.A: St. Paul, Minn. West Publishing Co., 1997.

KATHARINE A. COOK. LIMITED LIABILITY COMPANIES IN NEW MEXICO.

New Mexico Law Review. (1997). [Online]. Available from: <http://www.lexisnexis.com>.

Kenneth W. Clarkson, Roger LeRoy Miller, Gaylord A. Jentz, et al. West's Business Law : text, cases, legal, ethical, regulatory, and international environment. 7th ed. Florence, K.Y.: West Education Publishing, 1998.

M.C. Oliver. The Private Company in German. Series on International Corporate Law.

Second Edition. England: Kluwer Law and Taxation Publishers, 1986.

Michael J. Phillips. The Real Entity Theory of The Corporation. Florida State University Law Review. Spring, 1994. . [Online]. Available from: <http://www.lexisnexis.com>.

Montserrat Álvarez, Institut d'Economia de Barcelona. Wholly Owned Subsidiaries Versus Joint Venture : The Determinant Factors in the Catalan Multinational Manufacturing Case. Document de treball 2003/5. p. 3.

Nicholas Bourne. Company Law. 2nd edition. London, 1995.

Nicholas Wolfson, The Modern Corporation Free Market versus Regulation. New York: The Free Press A Division of Macmillan, Inc., 1984.

Nigel Foster & Satish Sule. German Legal System and Law. 3rd Edition. New York: Oxford University Press Inc., 2002.

Norbert Horm, Hein KoTz and Hans G. Laser. German Private and Commercial Law : An Introduction. Oxford: Clarendon Press, 1982.

Phillip I. Blumberg. The Multinational Challenge to Corporate Law. The Search for a New Corporate Personality. U.S.A: Oxford University Press, 1993.

Rafael La Porta, Florencio Lopez-de-Silanes and Andrei Shleifer. Corporate Ownership Around the World NBER Working Paper Series. Working Paper 6625. , June 1998. [Online]. Available from: <http://www.nber.org/paper/w6625>

R.E.G. Perrins and F.C.A and A Jeffirys. Ranking & Spicer's Company Law. 11th ed. Great Britain: The Stealar press Hatfield Herts, 1975.

Richard A. Posner. Economic Analysis of Law. 2nd Edition. U.S.A: Little, Brown and Company, 1973.

Richard E. Caves. Cambridge Surveys of Economic Literature : Multinational enterprise and economic analysis. U.S.A: Press Syndicate of the University of Cambridge, 1983.

Robert W. Hamilton. The Law of Corporations in a Nutshell. 4th edition. U.S.A: St. Paul Minn. West Publishing Co., 1996.

Roger Clarke and Tony McGuinness. The Economics of the Firm. U.S.A: Blackwell Publishers, 1987.

Rudolf Mueller. GMBH : German Law Concerning the Companies with Limited Liability. 2nd revised edition. Germany: Fritz Knapp Verlag, 1972.

Shih-Fen S. Chen and Jean-Francois Hennart. Japanese Investors' Choice of Joint Ventures Versus Wholly Owned Subsidiaries in the US : The Role of Market Barriers and Firm Capabilities. Journal of International Business Studies. (First Quarter 2002) : p. 1-18.

Venessa Edwards. EC Company Law. Oxford EC Law Library. Midsomer Norton, Somerset: Bockcraft Ltd., , 1999.

W. Friedmann. Legal Theory. 5th ed. London: Strven and Son, 1967.

William J. Baumol. Business Behavior, Value and growth. Macmillan, 1959.

William J. Rands. Domination of a Subsidiary by a parent. Indiana Law Review, 1999.

[Online]. Available from: <http://www.lexisnexis.com>.

Zoltan J. Acs and Daniel A. Gerlowski. Managerial Economics and Organization. New Jersey :
Prentice Hall. 1996.

ภาคผนวก ก

TWELFTH COUNCIL COMPANY LAW DIRECTIVE

of 21 December 1989

on single-member private limited-liability companies

(89/667/EEC)

THE COUNCIL OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community, and in particular Article 54 thereof,

Having regard to the proposal from the Commission,

In cooperation with the European Parliament,

Having regard to the opinion of the Economic and Social Committee,

Whereas certain safeguards which, for the protection of the interests of members and others, are required by Member States of companies and firms within the meaning of the second paragraph of Article 58 of the Treaty should be coordinated with a view to making such safeguards equivalent throughout the Community;

Whereas, in this field, Directives 68/151/EEC and 78/660/EEC, as last amended by the Act of Accession of Spain and Portugal, and Directive 83/349/EEC, as amended by the Act of Accession of Spain and Portugal, on disclosure, the validity of commitments, nullity, annual accounts and consolidated accounts, apply to all share capital companies; whereas Directives 77/91/EEC and 78/855/EEC (8), as last amended by the Act of Accession of Spain and Portugal, and Directive 82/891/EEC (9) on formation and capital, mergers and divisions apply only to public limited-liability companies;

Whereas the small and medium-sized enterprises (SME) action programme (10) was approved by the Council in its Resolution of 3 November 1986;

Whereas reforms in the legislation of certain Member States in the last few years, permitting single-member private limited-liability companies, have created divergences between the laws of the Member States;

Whereas it is important to provide a legal instrument allowing the limitation of liability of the individual entrepreneur throughout the Community, without prejudice to the laws of the Member States which, in exceptional circumstances, require that entrepreneur to be liable for the obligations of his undertaking;

Whereas a private limited-liability company may be a single-member company from the time of its formation, or may become one because its shares have come to be held by a single shareholder; whereas, pending the coordination of national provisions on the laws relating to groups, Member States may lay down certain special provisions and penalties for cases where a natural person is the sole member of several companies or where a single-member company or any other legal person is the sole member of a company; whereas the sole aim of this provision is to take account of the differences which currently exist in certain national laws; whereas, for that purpose, Member States may in specific cases lay down restrictions on the use of single-member companies or remove the limits on the liabilities of sole members; whereas Member States are free to lay down rules to cover the risks that single-member companies may present as a consequence of having single members, particularly to ensure that the subscribed capital is paid;

Whereas the fact that all the shares have come to be held by a single shareholder and the identity of the single member must be disclosed by an entry in a register accessible to the public;

Whereas decisions taken by the sole member in his capacity as general meeting must be recorded in writing;

Whereas contracts between a sole member and his company as represented by him must likewise be recorded in writing, insofar as such contracts do not relate to current operations concluded under normal conditions,

HAS ADOPTED THIS DIRECTIVE:

Article 1

The coordination measures prescribed by this Directive shall apply to the laws, regulations and administrative provisions of the Member States relating to the following types of company:

— *in Germany:*

Gesellschaft mit beschränkter Haftung,

— *in Belgium:*

Société à responsabilité limitée / de besloten vennootschap met beperkte aansprakelijkheid,

— *in Denmark:*

Anpartsselskaber,

— *in Spain:*

Sociedad de responsabilidad limitada,

— *in France:*

Société à responsabilité limitée,

— *in Greece:*

Εταιρεία περιορισμένης ευθύνης,

— *in Ireland:*

Private company limited by shares or by guarantee,

— *in Italy:*

Società a responsabilità limitata,

— *in Luxembourg:*

Société à responsabilité limitée,

— *in the Netherlands:*

Besloten vennootschap met beperkte aansprakelijkheid.

— *in Portugal:*

Sociedade por quotas,

— *in the United Kingdom:*

Private company limited by shares or by guarantee,

— *in Austria:*

Aktiengesellschaft, Gesellschaft mit beschränkter Haftung,

— *in Finland:*

Osakeyhtiö/aktiebolag,

— *in Sweden:*

Aktiebolag.



Article 2

1. A company may have a sole member when it is formed and also when all its shares come to be held by a single person (single-member company).

2. Member States may, pending coordination of national laws relating to groups, lay down special provisions or sanctions for cases where:

- (a) a natural person is the sole member of several companies; or
- (b) a single-member company or any other legal person is the sole member of a company.

Article 3

Where a company becomes a single-member company because all its shares come to be held by a single person, that fact, together with the identity of the sole member, must either be recorded in the file or entered in the register within the meaning of Article 3 (1) and (2) of Directive 68/151/EEC or be entered in a register kept by the company and accessible to the public.

Article 4

1. The sole member shall exercise the powers of the general meeting of the company.
2. Decisions taken by the sole member in the field referred to in paragraph 1 shall be recorded in minutes or drawn up in writing.

Article 5

1. Contracts between the sole member and his company as represented by him shall be recorded in minutes or drawn up in writing.
2. Member States need not apply paragraph 1 to current operations concluded under normal conditions.

Article 6

Where a Member State allows single-member companies as defined by Article 2 (1) in the case of public limited companies as well, this Directive shall apply.

Article 7

A Member State need not allow the formation of single-member companies where its legislation provides that an individual entrepreneur may set up an undertaking the liability of which is limited to a sum devoted to a stated activity, on condition that safeguards are laid down for such undertakings which are equivalent to those imposed by this Directive or by any other Community provisions applicable to the companies referred to in Article 1.

Article 8

1. Member States shall bring into force the laws, regulations and administrative provisions necessary to comply with this Directive by 1 January 1992. They shall inform the Commission thereof.
2. Member States may provide that, in the case of companies already in existence on 1 January 1992, this Directive shall not apply until 1 January 1993.
3. Member States shall communicate to the Commission the texts of the main provisions of national law which they adopt in the field covered by this Directive.

Article 9

This Directive is addressed to the Member States.

ภาคผนวก ข

EUROPEAN COMMUNITIES (SINGLE-MEMBER PRIVATE LIMITED COMPANIES)
REGULATIONS, 1994.

I, RUAIRÓ QUINN, Minister for Enterprise and Employment, in exercise of the powers conferred on me by section 3 of the European Communities Act, 1972 (No. 27 of 1972), and for the purpose of giving effect to Council Directive No. 89/667/EEC of 21 December 1989⁽¹⁾, hereby make the following Regulations:

⁽¹⁾O.J. No. L395, 30-12-1989, Pp. 40-42.

*Citation, Commencement
and Construction*

1. (1) These Regulations may be cited as the European Communities (Single-Member Private Limited Companies) Regulations, 1994.

(2) These Regulations shall come into operation on the 1st day of October, 1994.

(3) These Regulations shall be construed as one with the Companies Acts, 1963 to 1990.

Interpretation

2. (1) In these Regulations, unless the context otherwise requires—

"accounts" means the balance sheet and profit and loss account of a company referred to in section 148 of the Principal Act, together with any notes to or other documents annexed to the accounts in question giving information which is required by any provision of the Companies Acts, and required or allowed by any such provision to be given in a note to or a document annexed to a company's accounts;

"the Act of 1990" means the Companies Act, 1990 (No. 33

of 1990);

"the Companies Acts" means the Principal Act, and every enactment which is to be construed as one with that Act;

"the Directive" means Council Directive No. 89/667/EEC of 21 December 1989;

"enactment" includes an instrument made under an enactment;

"the Principal Act" means the Companies Act, 1963 (No. 33 of 1963);

"single-member company" shall be construed in accordance with Regulation 3 (1);

(2) A word or expression that is used in these Regulations and is also used in the Directive has, unless the contrary intention appears, the meaning in these Regulations that it has in the Directive.

(3) In these Regulations—

(a) a reference to a regulation is a reference to a regulation of these Regulations unless it is indicated that reference to some other Regulation is intended,

(b) a reference to a paragraph or subparagraph is a reference to the paragraph or subparagraph of the provision in which the reference occurs unless it is indicated that reference to some other provision is intended.

*Single-member private
companies, limited by
shares or by guarantee*

3. (1) Notwithstanding any enactment or rule of law to the contrary, a private company limited by shares or by guarantee may be formed by one person, and may have one member (in these Regulations referred to as a single-member company), to the extent permitted by the Companies Acts and these Regulations.

(2) Any enactment or rule of law which applies in relation to a private company limited by shares or guarantee incorporated under the Companies Acts shall, in the absence of any express provision to the contrary, apply with any necessary modifications in relation to a single-member company as it applies in relation to such a company which is formed by two or more persons or which has two or more persons as members.

(3) Without prejudice to the generality of paragraphs (1) and (2), the Companies Acts shall have effect with the modifications specified in these Regulations.

*Formation of a single-
member company*

4. Notwithstanding section 5 (1) of the Principal Act, one person may, for any lawful purpose, by subscribing his or her name to a memorandum of association and otherwise complying with the requirements of the Companies Acts and these Regulations relating to registration, form an incorporated company being a private company limited by shares or by guarantee.

*Company becoming a
single-member company*

5. (1) A private company limited by shares or by guarantee registered with two or more subscribers to its memorandum of association, in accordance with the Companies Acts, shall become a single-member company, on such date as the number of members is reduced to one and all the shares in the company are registered in the name of a sole person.

(2) Where a company becomes a single-member company pursuant to paragraph (1) it shall cause that fact and the date on which it became a single-member company and the identity of the sole member to be notified in writing in the prescribed form to the registrar of companies within 28 days after the date on which the number of members is reduced to one.

(3) If a company fails to comply with the requirements of paragraph (2), the company and every officer of the company who is in default shall be guilty of an offence.

*Change in status of a
single-member company*

6. (1) A company which is incorporated as, or becomes, a single-member company, in accordance with the Companies Acts and these Regulations, shall cease to be a single-member company on such date as the number of members increases to more than one but shall continue to be a private company limited by shares or guarantee, as the case may be, while the number of members does not exceed 50.

(2) Where a single-member company ceases to be such pursuant to paragraph (1), it shall cause that fact and the date on which it ceased to be a single-member company to be notified in writing in the prescribed form to the registrar of companies within 28 days after the date when the number of members increased to more than one.

(3) If a company fails to comply with the requirements of paragraph (2), the company and every officer of the company who is in default shall be guilty of an offence.

*Non-application of
section 36 of Principal
Act*

7. (1) Section 36 of the Principal Act shall not apply to a private company limited by shares or by guarantee.

(2) Without prejudice to paragraph (1), a person who, before the coming into force of these Regulations, is liable by virtue of section 36 of the Principal Act (members severally liable for debts where business carried on with fewer than, in the case of private company, two members) for the payment of the debts of a private company limited by shares or by guarantee, shall not be so liable for the payment of the company's debts contracted on or after the date on which these Regulations come into force.

Annual General Meeting

8. (1) The sole member of a single-member company may decide, in the manner provided for in Regulation 9, to dispense with the holding of annual general meetings and, if he or she does so, section 131 of the Principal Act shall not apply to the company.

(2) A decision pursuant to paragraph (1) shall have effect for the year in which it is made and subsequent years, but shall not affect any liability already incurred by reason of default in holding an annual general meeting.

(3) In any year in which an annual general meeting would, but for a decision pursuant to paragraph (1) be required to be held, and in which no such meeting has been held, the sole member or the auditor of a single-member company may, by notice to the company not later than three months before the end of the year, require the holding of an annual general meeting in that year.

(4) If such a notice is given, the provisions of section 131 of the Principal Act, other than subsection (2) thereof, shall apply with respect to the calling of the meeting and the consequence of default.

(5) Where a decision to dispense with the holding of annual general meetings for a single-member company pursuant to paragraph (1) is in force, the requirements in—

(a) section 148 of the Principal Act that the directors lay accounts before the annual general meeting,

(b) section 158 of the Principal Act that a directors' report shall be attached to the balance sheet,

(c) section 193 of the Act of 1990 that the auditors shall make a report on the accounts of the company at the annual general meeting, and

(d) Regulation 5 of the European Communities (Companies: Group Accounts) Regulations, 1992 (S.I. No. 201 of 1992) that a parent undertaking lay group accounts before the annual general meeting,

shall be deemed to be satisfied where the said accounts and reports are sent to the sole member of the single-member company in accordance with section 159 of the Principal Act, with the modification that they shall be sent not less than 21 days before the appropriate date.

(6) A reference in any other provision of the Companies Acts to the accounts of a company laid before the annual general meeting of a company or the report of the auditors on or the report of the directors accompanying such accounts shall, in the case of a single-member company where a decision to dispense with the holding of annual general meetings pursuant to paragraph (1) is in force, be construed as a reference to the accounts and reports sent to the sole member in accordance with paragraph (5).

(7) If a decision to dispense with the holding of annual general meetings under paragraph (1) ceases to have effect, sections 148 and 158 of the Principal Act, section 193 of the Act of 1990, and Regulation 5 of the European Communities (Companies: Group Accounts) Regulations, 1992 shall, with any necessary modifications, apply in relation to the accounts and reports in respect of the financial year in which the decision ceases to have effect and subsequent financial years.

(8) For the purposes of the Principal Act, the requirements—

(a) in section 127 that the annual return must be completed within 60 days after the annual general meeting,

(b) in section 148 that the accounts must be made up to a date not earlier than the date of the annual general meeting by more than 9 months, and

(c) in paragraph 5 of Part I of the Fifth Schedule that the list containing specified particulars of persons who are members on the 14th day after the company's annual general meeting

shall in the case of a single-member company where a decision to dispense with the holding of annual general meetings pursuant to paragraph (1) is in force, be read as relating to a similar period relative to the appropriate date.

(9) For the purposes of this Regulation, each year the "appropriate date" shall be

(a) in the case of a single-member company formed as such and where a decision to dispense with the holding of annual general meetings is taken before the first such meeting is due, the last day of the month in which the anniversary of its formation falls;

(b) in the case of a private company limited by share or by guarantee formed after the commencement of these Regulations which becomes a single-member company pursuant to Regulation 5 before holding its first annual general

meeting and where a decision to dispense with the holding of annual general meetings is taken before the first such meeting is due, the last day of the month in which the anniversary of its formation falls; and

(c) in the case of all other single-member companies, the last day of the month in which the anniversary of the last annual general meeting of the company was held falls.

*General Meetings —
Powers exercisable by
sole member*

9. (1) Subject to paragraph (2), all the powers exercisable by a company in general meeting under the Companies Acts or otherwise shall be exercisable, in the case of a single-member company, by the sole member without the need to hold a general meeting for that purpose.

(2) Paragraph (1) shall not empower the sole member of a single-member company to exercise the powers in sections 160 (2) (b), 160 (5), and 160 (6) of the Principal Act to remove an auditor from office without holding the requisite meeting provided for in the said provisions.

(3) Subject to paragraph (2), any provision of the Companies Acts which—

(a) enables or requires any matter to be done or to be decided by a company in general meeting, or

(b) requires any matter to be decided by a resolution of the company,

shall be deemed to be satisfied, in the case of a single-member company, by a decision of the member which is drawn up in writing and notified to the company in accordance with this Regulation.

(4) Where the sole member of a single-member company takes any decision which may be taken by the company in general meeting and which has effect, pursuant to paragraphs (1) and (3), as if agreed by the company in general meeting, he shall, unless the decision is taken by way of written resolution which he has already forwarded to the company, provide the company with a written record of that decision.

(5) Where the sole member notifies a decision taken by way of written resolution, or a written record of a decision taken pursuant to paragraph (4), to a single-member company of which he is the sole member, the notification shall be recorded and retained by the company in a book or by some other suitable means maintained for the purpose.

(6) The exercise by the sole member of a single-member company of any power, right or obligation under this Regulation, to which section 143 of the Principale Act, as amended, applies, shall, within 15 days, be notified by the company in writing to the registrar of companies and be recorded by him.

(7) If the sole member fails to comply with paragraph (4), or if a company fails to comply with paragraphs (5) or (6) the sole member, the company and every officer of the company who is in default shall be guilty of an offence.

(8) Failure by the sole member to comply with paragraph (4) shall not affect the validity of any decision referred to in that paragraph.

Quorum

10. Notwithstanding any provision to the contrary in the articles of a single-member company, one member present in person or by proxy shall be a quorum.

Non-application of other provisions of Principal Act

11. Sections 213 (d) and 215 (a) (i) of the Principal Act shall not apply to a private company limited by shares or by guarantees.

Connected person

12. The sole member of a single-member company shall be deemed to be a connected person for the purposes of section 26 of the Act of 1990.

Contracts with sole members

13. (1) Subject to paragraph (2), where a single-member company enters into a contract with the sole member of the company and the sole member also represents the company in the transaction, whether as a director or otherwise, the company shall, unless the contract is in writing, ensure that the terms of the contract are forthwith set out in a written memorandum or are recorded in the minutes of the first

meeting of the directors of the company following the making of the contract.

(2) Paragraph (1) shall not apply to contracts entered into in the ordinary course of the company's business.

(3) If a company fails to comply with paragraph (1), the company and every officer of the company who is in default shall be guilty of an offence.

(4) Subject to paragraph (5), nothing in this Regulation shall be taken to prejudice the operation of any other enactment or rule of law applying to contracts between a company and a director of that company.

(5) Failure to comply with paragraph (1) with respect to a contract shall not affect the validity of that contract.

Offences

14. A person guilty of an offence under any provision of these Regulations shall be liable, on summary conviction, to a fine not exceeding ₦1,000.

GIVEN under my Official Seal, this 8th day of September, 1994.

RUAIRØ QUINN,
Minister for Enterprise
and Employment.

EXPLANATORY NOTE.

These Regulations implement Council Directive No. 89/667/EEC on single-member private limited liability companies. The Directive requires Member States to provide for the formation of a company having one member and to permit a company to be a single member company, subject to certain safeguards. In relation to Ireland, it applies to private companies limited by shares or guarantee.

The Regulations provide that a sole person, whether natural or legal, will now be able to form or become a single-member limited liability company. The Regulations further provide that, subject to certain modifications, all the provisions of the Companies Acts which apply to private companies limited by shares or by guarantee will apply to single-member companies. For instance, the sole member, if he so decides, can dispense with the holding of General Meetings, including Annual General Meetings (AGM). However, certain notifications will have to be made. Also the accounts and reports that would normally be laid before the AGM of a company will still need to be prepared and forwarded to the member.

ภาคผนวก ก

The Companies (Single Member Private Limited Companies) Regulations 1992

Made 14th July 1992

Coming into force 15th July 1992

Whereas a draft of these Regulations has been approved by resolution of each House of Parliament in pursuance of paragraph 2(2) of Schedule 2 to the European Communities Act 1972.

Now, therefore, the Secretary of State, being a Minister designated for the purposes of section 2(2) of that Act in relation to measures relating to single member private companies limited by shares or by guarantee¹, in exercise of the powers conferred by that section hereby makes the following Regulations:

Citation and commencement

1. These Regulations may be cited as the Companies (Single Member Private Limited Companies) Regulations 1992 and shall come into force on the day after the day on which they were made.

Single member private companies limited by shares or by guarantee

2.—(1) Notwithstanding any enactment or rule of law to the contrary, a private company limited by shares or by guarantee within the meaning of section 1 of the Companies Act 1985 may be formed by one person (in so far as permitted by that section as amended by these Regulations) and may have one member; and accordingly—

(a) any enactment or rule of law which applies in relation to a private company limited by shares or by guarantee shall, in the absence of any express provision to the contrary, apply with such modification as may be necessary in relation to such a company which is formed by one person or which has only one person as a member as it does in relation to such a company which is formed by two or more persons or which has two or more persons as members; and

¹ The European Communities (Designation) (No. 3) Order 1991.

(b) without prejudice to the generality of the foregoing, the Companies Act 1985 and the Insolvency Act 1986 shall have effect with the amendments specified in the Schedule to these Regulations.

(2) In this regulation "enactment" shall include an enactment comprised in subordinate legislation and "subordinate legislation" shall have the same meaning as in section 21(1) of the Interpretation Act 1978.

Transitional provision

3. A person who, before the coming into force of these Regulations, is liable by virtue of section 24 of the Companies Act 1985 for the payment of the debts of a private company limited by shares or by guarantee, shall not be so liable for the payment of the company's debts contracted on or after the day on which these Regulations come into force.

N. Hamilton

Parliamentary Under Secretary of State for Corporate Affairs, Department of Trade and Industry

14th July 1992

The Companies (Single Member Private Limited Companies) Regulations 1992

EXPLANATORY NOTE

(This note is not part of the Regulations)

1. These Regulations implement Council Directive No. 89/667/EEC on single-member private limited-liability companies (OJ No. L395, 30.12.89, p.40). The directive requires Member States to provide for the formation of a company having one member and to permit a company to be a single member company, subject to certain safeguards. In relation to the UK, it applies to private companies limited by shares or by guarantee.
2. Regulation 2(1) provides that a private company limited by shares or by guarantee may be formed by one person (in so far as permitted by section 1 of the Companies Act 1985 as amended by the Regulations) and may have one member. It also provides that any enactment or rule of law applying to a private company limited by shares or by guarantee shall, in the absence of any express provision to the contrary, apply with any necessary modification to such a company which has been formed by one person or which has only one member.
3. Without prejudice to the generality of Regulation 2(1), Regulation 2(2) also makes specific amendments to the Companies Act 1985 and the Insolvency Act 1986 as set out in the Schedule to the Regulations. The following sections of the Companies Act 1985 are amended: section 1 (mode of forming an incorporated company), section 24 (minimum membership for carrying on business) and section 680 (companies capable of being registered under Chapter II of Part XXII). The following new provisions are inserted into the Companies Act 1985: section 322B (contracts with sole members who are directors), section 352A (statement that company has only one member), section 370A (quorum at meetings of the sole member) and section 382B (recording of decisions by the sole member). Consequential amendments are made to section 741 of the Companies Act 1985 and to Schedule 24 to that Act. Section 122 of the Insolvency Act 1986 (circumstances in which company may be wound up by the court) is also amended.
4. Regulation 3 contains a transitional provision.

EUROPEAN COMMUNITIES

The European Communities (Designation) (No. 3) Order 1991

Made 16th October 1991

Laid before Parliament 24th October 1991

Coming into force 15th November 1991

At the Court of Saint James, the 16th day of October 1991

Present

The Counsellors of State in Council

Whereas Her Majesty, in pursuance of the Regency Acts 1937 to 1953, was pleased, by Letters Patent dated the 25th day of September 1991 to delegate to the six Counsellors of State therein named or any two or more of them full power and authority during the period of Her Majesty's absence from the United Kingdom to summon and hold on Her Majesty's behalf Her Privy Council and to signify thereat Her Majesty's approval for anything for which Her Majesty's approval in Council is required:

Now, therefore, His Royal Highness The Prince Andrew, Duke of York and His Royal Highness the Prince Edward, being authorised thereto by the said Letters Patent, and in pursuance of the powers conferred on Her Majesty by section 2(2) of the European Communities Act 1972, and by and with the advice of Her Majesty's Privy Council, do on Her Majesty's behalf order, and it is hereby ordered, as follows:

Citation and commencement

1. This Order may be cited as the European Communities (Designation) (No. 3) Order 1991 and shall come into force on 15th November 1991.

Designation of Ministers or departments

2.—(1) For the purposes of section 2(2) of the European Communities Act 1972 the Ministers or government departments specified in column 1 of the Schedule to this Order are hereby designated in relation to the matters specified in column 2 of that Schedule.

(2) Where a Minister or government department is designated in relation to any item in column 2 of the said Schedule, then, for the purposes of the said section 2(2), that Minister or government department is also hereby designated in relation to anything supplemental or incidental to the matters specified in that item.

(3) Where more than one Minister or government department is designated by this Order in relation to any matter, the designation has effect as respects the making of regulations by any of them or by more than one of them acting jointly.

(4) Regulations made by a Northern Ireland department in pursuance of this Order, that are not made jointly with any Minister, shall form part of the law of Northern Ireland and not of any other part of the United Kingdom.

G. I. de Deney

Clerk of the Privy Council



ประวัติผู้เขียนวิทยานิพนธ์

นางสาวจิรจิตร ช่วยศรีขัง เกิดวันที่ 3 กรกฎาคม 2521 ที่กรุงเทพมหานคร สำเร็จการศึกษาปริญญาตรี นิติศาสตรบัณฑิต จากจุฬาลงกรณ์มหาวิทยาลัย เมื่อ พ.ศ. 2544 และสำเร็จการศึกษาเนติบัณฑิตไทย จากสำนักอบรมศึกษาวิชากฎหมายแห่งเนติบัณฑิตยสภา สมัยที่ 55 เมื่อปีการศึกษา 2546 ได้เข้าศึกษาต่อในหลักสูตรนิติศาสตรมหาบัณฑิตที่จุฬาลงกรณ์มหาวิทยาลัยเมื่อ พ.ศ. 2545 ปัจจุบันรับราชการตำแหน่งนิติกร 4 สังกัดกองนิติการ กรมพัฒนาธุรกิจการค้า กระทรวงพาณิชย์